

1 Edward J. Casey (SBN 119571)  
Andrew Brady (SBN 273675)  
2 ALSTON & BIRD LLP  
333 South Hope Street, 16th Floor  
3 Los Angeles, CA 90071-1410  
Telephone: 213-576-1000  
4 Facsimile: 213-576-1100  
ed.casey@alston.com  
5 andrew.brady@alston.com

6 Attorneys for Cross-Defendant  
**SGS ANTELOPE VALLEY DEVELOPMENT, LLC**

7  
8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
9 **FOR THE COUNTY OF LOS ANGELES**  
10

11 ANTELOPE VALLEY GROUNDWATER  
12 CASES

13 INCLUDED ACTIONS:

14 LOS ANGELES COUNTY  
WATERWORKS DISTRICT NO. 40 v.  
DIAMOND FARMING COMPANY, et al.,  
15 Los Angeles Superior Court Case No.  
BC325201;

16 LOS ANGELES COUNTY  
17 WATERWORKS DISTRICT NO. 40 v.  
DIAMOND FARMING COMPANY, et al.,  
18 Kern County Superior Court Case No. S-  
1500-CV-254-348;

19  
20 DIAMOND FARMING COMPANY, and  
W.M. BOLTHOUSE FARMS, INC., v.  
CITY OF LANCASTER, et al., Riverside  
21 Superior Court Case No. RIC 344436 [c/w  
22 case no. RIC 344668 and 355840]

Judicial Council Coordination No. 4408  
Case No. 1-05-CV-049053  
Assigned to The Honorable Jack Komar

**DECLARATION OF SCOTT PISCITELLO  
FILED IN COMPLIANCE WITH COURT'S  
MINUTE ORDER OF MAY 15, 2015  
CONCERNING SGS ANTELOPE VALLEY  
DEVELOPMENT, LLC**

1 **DECLARATION OF SCOTT PISCITELLO**

2  
3 1. I, Scott Piscitello, am the Vice President of SunPower AssetCo. LLC  
4 (“SunPower”). I make this declaration in response to and in compliance with the Court’s Minute  
5 Order dated May 15, 2015 involving the recent transaction involving SGS Antelope Valley  
6 Development, LLC (“SGS”). I have personal knowledge of the facts set forth below and, if  
7 called as a witness, I could and would competently testify to them.

8 2. As of March 30, 2015, SunPower and Sempra Solar Holdings, LLC (“Sempra”)  
9 entered into a transaction by which SunPower purchased all of the membership interests in SGS  
10 from Sempra. Attached hereto are excerpts of the relevant agreement concerning that transaction  
11 (entitled “Membership Interest Purchase Agreement”) that are relevant to this litigation, namely,  
12 the cover page, the Table of Contents, pages 1 and 23, the signature pages, and Schedule 3.13  
13 (true and correct copies of which are attached hereto as Exhibit “A”). As indicated in those  
14 excerpts, SunPower purchased all of the membership interests in SGS and, consequently, all of  
15 the real property and land owned by SGS. That land is described in the following documents  
16 filed and served in this litigation:

17 a. SunPower Corporation’s Case Management Conference Statement, filed  
18 on May 12, 2015.

19 b. Response To December 12, 2012 Discovery Order For Phase 4 Trial, filed  
20 by SGS on December 21, 2012.

21 c. SGS Antelope Valley Development LLC’s Application For Approval Of  
22 Stipulation Concerning Land Ownership And Prior Groundwater Production, filed on May 1,  
23 2013.

24 3. Since SunPower purchased all of the membership interests in SGS and SGS  
25 continues to retain ownership of the land that is the subject of this litigation, SGS should remain  
26 as the named party in the case.

27 ///

28 ///

1 I declare under penalty of perjury under the laws of the State of California that the  
2 foregoing is true and correct.

3 Executed on this 17th day of June, 2015, in Portland, Oregon.

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6 SCOTT PISCITELLO  
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## **EXHIBIT A**

**MEMBERSHIP INTEREST PURCHASE AGREEMENT**

**by and among**

**SEMPRA SOLAR HOLDINGS, LLC,**

**as Seller**

**and**

**SUNPOWER ASSETCO, LLC,**

**as Buyer**

**and**

**SGS ANTELOPE VALLEY DEVELOPMENT, LLC,**

**as the Transferred Entity**

**Dated as of March 20, 2015**

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**Exhibits**

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**Schedules**

Schedule 1.1(a)	Persons of Knowledge for Seller
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Schedule 4.5	Private Consents and Approvals for Buyer

This MEMBERSHIP INTEREST PURCHASE AGREEMENT (this “**Agreement**”), dated as of March 20, 2015 (the “**Effective Date**”), is by and among Sempra Solar Holdings, LLC, a Delaware limited liability company (“**Seller**”), SGS Antelope Valley Development, LLC, a Delaware limited liability company (the “**Transferred Entity**”), and SunPower AssetCo, LLC, a Delaware limited liability company (“**Buyer**”). Seller, the Transferred Entity and Buyer are each also referred to herein as a “**Party**” and collectively as the “**Parties**.”

## RECITALS

WHEREAS, Seller owns one hundred percent (100%) of the issued and outstanding membership interests of the Transferred Entity;

WHEREAS, the Transferred Entity owns certain land, permits and other development rights and assets for a solar powered electric generation facility to be located in Kern County, California, generally known as “Rosamond Solar” (the “**Project**”);

WHEREAS, in connection with the development, planning, siting and permitting of the Project, the Transferred Entity has acquired, and owns at the Closing (as defined below), all of the Project Assets (as defined below); and

WHEREAS, Buyer desires to acquire from Seller, and Seller wishes to sell and transfer to Buyer, all of the issued and outstanding membership interests of the Transferred Entity at the Closing, upon the terms and subject to the conditions of this Agreement.

NOW, THEREFORE, in consideration of the mutual covenants and agreements set forth in this Agreement and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties, intending to be bound hereby, agree as follows:

## ARTICLE 1

### DEFINITIONS

#### 1.1 Definitions.

As used in this Agreement, the following defined terms have the meanings indicated below:

“**Affiliate**” means, for any Person, any other Person directly or indirectly controlling, directly or indirectly controlled by, or under direct or indirect common control with, such Person. As used in this definition, the terms “control,” “controlling” or “controlled by” shall mean the possession, directly or indirectly, of the power either to (a) vote fifty percent (50%) or more of the securities or interests having ordinary voting power for the election of directors (or other comparable controlling body) of such Person; or (b) direct or cause the direction of the actions, management or policies of such Person, whether through the ownership of voting securities or interests, by contract or otherwise.

“**Agreement**” has the meaning given to it in the preamble to this Agreement.

(b) No Seller Party has breached any of the representations, warranties or covenants set forth in the Organizational Documents of the Transferred Entity in any material respect.

### 3.12 Title.

(a) Seller is the sole legal and beneficial owner of all of the outstanding Membership Interests, and has good title to the outstanding Membership Interests, free and clear of Liens (other than Permitted Equity Liens), with all necessary power and authority to sell, transfer and assign legal and beneficial ownership of the Membership Interests to Buyer subject to and as provided in this Agreement. Upon the consummation of the sale, transfer and assignment of the Membership Interests to Buyer as provided in this Agreement, Buyer will receive good title to the Membership Interests, free and clear of Liens (other than Permitted Equity Liens), and in compliance with the Organizational Documents of the Transferred Entity.

(b) True and complete copies of the Current Commitment have been made available to Buyer. Seller makes no representations or warranties as to the accuracy or reliability of the Current Commitment or as to the plans and projections for the Project to the extent dependent upon the Current Commitment or any subsequent update thereof.

(c) With respect to Project Assets other than the Real Property Rights (which are addressed in Section 3.13), the Transferred Entity is the legal and beneficial owner of such Project Assets, free and clear of any Liens other than Permitted Liens.

(d) The Transferred Entity does not have, and at the time of Closing will not have, any legal or beneficial interest in any asset, right or property other than the Project Assets.

### 3.13 Real Property.

(a) The Transferred Entity has fee simple title to the Real Property designated in Part A of Schedule 3.13 and is the grantee, or a successor-in-interest to or assignee of the grantee, under each of the Right-of-Way Agreements designated in Part B of Schedule 3.13.

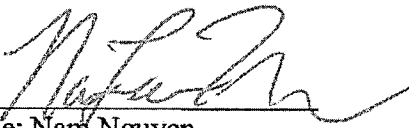
(b) The Real Property Rights constitute the only rights in real property owned, leased or held by the Transferred Entity or in which the Transferred Entity otherwise has a legal or beneficial interest. Except for the Right-of-Way Agreements, there are no other written or, to Seller's Knowledge, oral Contracts between Seller and/or the Transferred Entity (or any of their respective Affiliates), on the one hand, and the other parties to the Right-of-Way Agreements, on the other hand, regarding the matters set forth in, or the transactions contemplated by, the Right-of-Way Agreements. Each Right-of-Way Agreement is in full force and effect and constitutes a legal, valid and binding agreement, enforceable in accordance with its terms, of the Transferred Entity and, to Seller's Knowledge, of each other party thereto (except as the same may be limited by bankruptcy, insolvency, reorganization, arrangement, moratorium or other similar Applicable Laws relating to or affecting the rights of creditors generally, or by general equitable principles) and, to Seller's Knowledge, no Person or party to such Right-of-Way Agreement is bankrupt or insolvent. Neither the Transferred Entity nor, to Seller's Knowledge, any other party to any Right-of-Way Agreement is in violation or breach of, or in default under, such Right-of-Way Agreement (nor has any event occurred which, with notice or lapse of time or both, would cause

IN WITNESS WHEREOF, this Agreement has been duly executed and delivered by the duly authorized officer of each Party as of the date first above written.

**BUYER:**


**SUNPOWER ASSETCO, LLC,**  
a Delaware limited liability company

By: SunPower HoldCo, LLC,  
its sole member

By:   
Name: Nam Nguyen  
Title: Vice President

**SELLER:**

**SEMPRA SOLAR HOLDINGS, LLC**

By:   
Name: L.S. FOLKS  
Title: V.P.

**TRANSFERRED ENTITY:**

**SGS ANTELOPE VALLEY DEVELOPMENT, LLC,**

By:  \_\_\_\_\_

Name: L.S. FOLKS  
Title: V.P.

### Schedule 3.13 – Real Property

#### Part A – Fee Simple Interests

##### **TRACT 1:**

PARCEL 1 OF PARCEL MERGER NO. 12-009 FOR SGS ANTELOPE VALLEY DEVELOPMENT, LLC BY DETERMINATION OF MERGER RECORDED FEBRUARY 12, 2013 AS INSTRUMENT NO. 0213019730 OF OFFICIAL RECORDS, DESCRIBED AS FOLLOWS:

BEING A MERGER OF PARCEL "A" OF PARCEL MERGER NO. 11-001 PER DETERMINATION OF MERGER AS EVIDENCED BY THAT CERTAIN CERTIFICATE OF MERGER RECORDED APRIL 5, 2011 AS DOCUMENT NO. 0211044912 OF OFFICIAL RECORDS TOGETHER WITH THE SOUTH HALF OF THE SOUTHEAST QUARTER OF SECTION 29, TOWNSHIP 9 NORTH, RANGE 14 WEST, S.B.M., KERN COUNTY, CALIFORNIA.

EXCEPT THEREFROM 50% (FIFTY PERCENT) OF ALL OIL, PETROLEUM, GAS, BREA, ASHPALTUM AND ALL KINDRED SUBSTANCES AND OTHER MINERALS UNDER AND IN SAID LAND, AS RESERVED IN THE DEED FROM PAUL J. BLAZINA AND ANNA M. BLAZINA, HUSBAND AND WIFE, RECORDED JANUARY 31, 1958 IN BOOK 2903, PAGE 38 OF OFFICIAL RECORDS.

APN: 359-050-21

##### **TRACT 2:**

PARCEL 1 OF PARCEL MERGER NO. 12-011 FOR SGS ANTELOPE VALLEY DEVELOPMENT, LLC BY DETERMINATION OF MERGER RECORDED July 12, 2013 AS INSTRUMENT NO. 0213097870 OF OFFICIAL RECORDS, DESCRIBED AS FOLLOWS:

BEING A MERGER OF PARCEL "B" OF PARCEL MERGER NO. 11-001 PER DETERMINATION OF MERGER AS EVIDENCED BY THAT CERTAIN CERTIFICATE OF MERGER RECORDED APRIL 5, 2011 AS DOCUMENT NO. 0211044912 OF OFFICIAL RECORDS AND A PORTION OF THE NORTH HALF OF SECTION 33, TOWNSHIP 9 NORTH, RANGE 14 WEST OF DAN BERNARDINO BASE AND MERIDIAN, IN THE UNINCORPORATED AREA OF THE COUNTY OF KERN, STATE OF CALIFORNIA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

ALL OF THE WEST HALF OF THE NORTHEAST QUARTER TOGETHER WITH THE NORTHWEST QUARTER OF SAID SECTION 33, EXCEPTING THE WESTERLY 50.00 FEET THEREOF.

EXCEPTING THEREFROM AN UNDIVIDED 50% OF ALL OIL, MINERALS, GAS, HYDROCARBON AND ALLIED SUBSTANCES IN AND UNDER SAID LAND BELOW A DEPTH OF 500 FEET MEASURED FROM THE SURFACE OF SAID LAND, AND WITHOUT RIGHT OF SURFACE ENTRY, AS EXCEPTED AND RESERVED BY AILEEN WORDEN, A WIDOW IN DEED RECORDED JULY 17, 1967 IN BOOK 4071, PAGE 377 OF OFFICIAL RECORDS AS TO THE FOLLOWING DESCRIBED PROPERTY:

THE SOUTHEAST 1/4 OF THE NORTHWEST 1/4 OF SECTION 33, TOWNSHIP 9, NORTH,



RANGE 14 WEST, SAN BERNARDINO MERIDIAN IN THE UNINCORPORATED AREA OF THE COUNTY OF KERN, STATE OF CALIFORNIA, ACCORDING TO THE OFFICIAL PLAT OF SAID LAND.

APN: 359-121-54

**TRACT 3:**

THE SOUTHEAST QUARTER OF SECTION 20, TOWNSHIP 9 NORTH, RANGE 14, WEST, SAN BERNARDINO BASE AND MERIDIAN, IN THE UNINCORPORATED AREA OF THE COUNTY OF KERN, STATE OF CALIFORNIA, ACCORDING TO THE OFFICIAL PLAT THEREOF.

APN: 359-020-07-00-2

**TRACT 4:**

THE NORTHEAST QUARTER OF THE NORTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 32 IN TOWNSHIP 9 NORTH, RANGE 14 WEST, SAN BERNARDINO MERIDIAN, IN THE COUNTY OF KERN, STATE OF CALIFORNIA, ACCORDING TO THE OFFICIAL PLAT OF SAID LAND APPROVED BY THE SURVEYOR GENERAL FEBRUARY 19, 1856.

APN: 359-162-11-00-8

**TRACTS 5, 6 AND 7:**

The fee underlying the Easements described in the Current Commitment as Tract 8 (APN 261-120-09-00-5), Tract 9 (APNs 261-120-05-00-3 and 261-120-06-00-6) and Tract 10 (APN: 261-120-07-00-9).

**Part B – Right-of-Way Agreements**

1. Project Easement by and between Antelope Valley Water Storage, LLC, a Delaware limited liability company, as grantor, and Whirlwind Solar Star, LLC, a Delaware limited liability company and SGS Antelope Valley Development, LLC, a Delaware limited liability company, as grantees, dated as of November 3, 2010, a memorandum of which was recorded on December 2, 2010 as Instrument Number 0210166682; and as amended by that certain First Amendment to Project Easement Agreement and Memorandum of Easement Agreement, recorded May 12, 2011 as Instrument No. 0211062327, in the Official Records of Kern County, California, as evidenced by Memorandum of Assignment Agreement dated November 3, 2010 by and between Antelope Valley Water Storage, LLC and Valley Mutual Water Company, a mutual water company, recorded December 2, 2010, as Instrument No. 0210166683 of Official Records, as affected by Assignment and Assumption dated as of December 21, 2012, and recorded on December 31, 2012 as Instrument Number 0212190323 in the Official Records of Kern County, California.
2. Project Easement Agreement by and between SGS Antelope Valley Development, LLC, a Delaware limited liability company, as a grantor and WDS California II, LLC, a Delaware limited liability company as grantee, dated as of November 3, 2010, a memorandum of which was recorded on December 2, 2012 as Instrument Number 0210166685; as amended by that certain unrecorded Amended and Restated Project Easement Agreement dated as of November 27, 2012, by and among

SGS Antelope Valley Development LLC, a Delaware limited liability company, WDS California II, LLC, a Delaware limited liability company, and Whirlwind Solar Star, LLC, a Delaware limited liability company, as evidenced by a memorandum recorded on December 7, 2012 as Instrument No. 0212176181 in the Official Records of Kern County, California, as affected by Assignment and Assumption Agreement dated as of December 26, 2012, and recorded on December 27, 2012 as Instrument Number 0212188362 in the Official Records of Kern County, California, and Assignment and Assumption dated as of December 21, 2012, and recorded on December 31, 2012 as Instrument Number 0212190324 in the Official Records of Kern County, California.

3. Grant of Power Line and Access Easement by Willow Springs Investments, a California general partnership to First Solar Development Inc., a Delaware corporation, recorded September 7, 2011 as Instrument No. 000211117047 of Official Records, as affected by:

Partial Assignment of Powerline and Access Easement by First Solar Development Inc., a Delaware corporation (“assignor”) to Whirlwind Solar Star, LLC, a Delaware limited liability company and AV Solar Ranch 1, LLC, a Delaware limited liability company (“assignees”) recorded September 14, 2011 as Instrument No. 000211120351 of Official Records, as further amended by Assignment and Assumption of Co-Tenancy Interest in Gen-Tie Easements, by and between AV Solar Ranch 1, LLC, a Delaware limited liability company and AV Solar Ranch 2, LLC, a Delaware limited liability company, recorded September 15, 2011 as Instrument No. 000211121045 of Official Records, as further amended by Notice of Final Description recorded March 7, 2012 as Instrument No. 0212030913 of Official Records, as further amended by, Partial Assignment of Power Line and Access Easement by First Solar Development Inc., a Delaware corporation to Whirlwind Solar Star, LLC, a Delaware limited liability company and SGS Antelope Valley Development, LLC, a Delaware limited liability company, recorded March 7, 2012 as Instrument No. 0212030915 of Official Records.

Assignment of Easement Rights (Partial) by First Solar Development, Inc., a Delaware corporation and AV Solar Ranch 1, LLC, a Delaware limited liability company and Whirlwind Solar Star, LLC, a Delaware limited liability company, and Kingbird Solar, LLC, a Delaware limited liability company, formerly known as AV Solar Ranch 2, LLC, a Delaware limited liability company, (collectively “Grantors”), to Southern California Edison Company, a corporation, recorded July 19, 2012, as Instrument No. 0212097811 of Official Records of Kern County, California.

Assignment and Assumption dated as of December 28, 2012, and recorded on December 31, 2012 as Instrument Number 0212190330 the Official Records of Kern County, California.

4. Grant of Power Line and Access Easement, executed by and between Larry E. Tallman and Connie L. Tallman, Trustees of the Tallman Family Trust dated June 19, 1998 and SGS Antelope Valley Development, LLC, a Delaware limited liability company, recorded May 26, 2011 as Instrument No. 0211069125 of Official Records of Kern County, California, as affected by:

A Grant of Power Line and Access Easement by and between SGS Antelope Valley Development, LLC, a Delaware limited liability company, as grantor, and SGS Antelope Valley Development, LLC, a Delaware limited liability company and Whirlwind Solar Star, LLC, a Delaware limited liability company, collectively, as grantee, dated as of May 24, 2011 and recorded on July 7, 2011 as Instrument Number 0211086404 in the Official Records of Kern County, California,

The interest of Whirlwind Solar Star, LLC, a Delaware limited liability company, in the foregoing easement estate was assigned to Solar Star California XX, LLC, a Delaware limited

liability company by that certain Assignment and Assumption dated as of December 28, 2012, and recorded on December 31, 2012 as Instrument Number 0212190328, in the Official Records of Kern County, California

5. Grant of Power Line and Access Easement by and between SGS Antelope Valley Development, LLC, a Delaware limited liability company, as grantor, and SGS Antelope Valley Development, LLC, a Delaware limited liability company and Whirlwind Solar Star, LLC, a Delaware limited liability company, collectively, as grantee, dated as of May 20, 2011 and recorded on June 13, 2011 as Instrument Number 0211076177 in the Official Records of Kern County, California, as affected by Assignment and Assumption dated as of December 28, 2012, and recorded on December 31, 2012 as Instrument Number 2012190326 in the Official Records of Kern County, California.
6. Grant of Power Line and Access Easement by and between SGS Antelope Valley Development, LLC, a Delaware limited liability company, as grantor, and SGS Antelope Valley Development, LLC, a Delaware limited liability company and Whirlwind Solar Star, LLC, a Delaware limited liability company, collectively, as grantee, dated as of May 10, 2011 and recorded on June 13, 2011 as Instrument Number 0211076180 in the Official Records of Kern County, California, as affected by Assignment and Assumption dated as of December 28, 2012, and recorded on December 31, 2012 as Instrument Number 0212190329 in the Official Records of Kern County, California.
7. Grant of Power Line and Access Easement by and between SGS Antelope Valley Development, LLC, a Delaware limited liability company, as grantor, and SGS Antelope Valley Development, LLC, a Delaware limited liability company and Whirlwind Solar Star, LLC, a Delaware limited liability company, collectively, as grantee, dated as of May 20, 2011 and recorded on June 13, 2011 as Instrument Number 0211076184 in the Official Records of Kern County, California, as affected by Assignment and Assumption dated as of December 28, 2012, and recorded on December 31, 2012 as Instrument Number 0212190325 in the Official Records of Kern County, California.
8. Grant of Power Line and Access Easement by and between First Solar Development, Inc., a Delaware corporation, as grantor, and SGS Antelope Valley Development, LLC, a Delaware limited liability company, and Whirlwind Solar Star, LLC, a Delaware limited liability company, as grantee, dated as of June 17, 2011 and recorded on August 16, 2011 as Instrument Number 0211103862 in the Official Records of Kern County, California, as affected by Assignment and Assumption dated as of December 28, 2012, and recorded on December 31, 2012 as Instrument Number 0212190327 in the Official Records of Kern County, California.

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**PROOF OF SERVICE**

I, Yolanda S. Ramos, declare:

I am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action. My business address is Alston & Bird LLP, 333 South Hope Street, Sixteenth Floor, Los Angeles, CA 90071.

On June 17, 2015, I served the document(s) described as **DECLARATION OF SCOTT PISCITELLO FILED IN COMPLIANCE WITH COURT'S MINUTE ORDER OF MAY 15, 2015 CONCERNING SGS ANTELOPE VALLEY DEVELOPMENT, LLC** on the interested parties in this action by enclosing the document(s) in a sealed envelope addressed as follows:

BY MAIL: I am "readily familiar" with this firm's practice for the collection and the processing of correspondence for mailing with the United States Postal Service. In the ordinary course of business, the correspondence would be deposited with the United States Postal Service at 333 South Hope Street, Los Angeles, California 90071 with postage thereon fully prepaid the same day on which the correspondence was placed for collection and mailing at the firm. Following ordinary business practices, I placed for collection and mailing with the United States Postal Service such envelope at Alston & Bird LLP, 333 South Hope Street, Los Angeles, California 90071.

BY ELECTRONIC MAIL: By posting the document listed above to the Santa Clara Superior Court website: [www.scefiling.org](http://www.scefiling.org) regarding the ANTELOPE VALLEY GROUNDWATER matter.

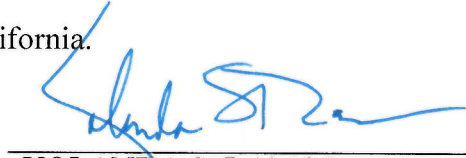
BY FEDERAL EXPRESS  UPS NEXT DAY AIR  OVERNIGHT DELIVERY: I deposited such envelope in a facility regularly maintained by  FEDERAL EXPRESS  UPS  Overnight Delivery [specify name of service: ] with delivery fees fully provided for or delivered the envelope to a courier or driver of  FEDERAL EXPRESS  UPS  OVERNIGHT DELIVERY [specify name of service:] authorized to receive documents at Alston & Bird LLP, 333 South Hope Street, Los Angeles, California 90071 with delivery fees fully provided for.

BY FACSIMILE: I telecopied a copy of said document(s) to the following addressee(s) at the following number(s) in accordance with the written confirmation of counsel in this action.

[State] I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

[Federal] I declare under penalty of perjury that the foregoing is true and correct.

Executed on June 17, 2015, at Los Angeles, California.

  
\_\_\_\_\_  
YOLANDA S. RAMOS